

October 25, 1999

MEMORANDUM TO: William H. Bateman, Chief
Materials and Chemical Engineering Branch
original signed by:

THRU: Robert Hermann, Sr. Level Advisor
for Materials Science
Materials and Chemical Engineering Branch
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FROM: Timir Misra
Components Integrity Section
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SUBJECT: INTERNAL NRC STAKEHOLDERS MEETING TO DISCUSS
DEVELOPMENT OF ENFORCEMENT GUIDELINES VOLUNTARY
INDUSTRY INITIATIVES

By a staff requirements memorandum (SRM) dated May 27, 1999, the Commission approved voluntary industry initiatives as an appropriate substitute for NRC regulatory action where the action to be taken is needed to meet existing requirements or for cases where a substantial increase in overall protection can be achieved with costs of implementation justifying the increased protection. The SRM was issued in response to SECY-99-063, "The Use by Industry of Voluntary Initiatives in the Regulatory Process," dated March 2, 1999.

On September 8, 1999, members of the NRC staff from the Office of Nuclear Reactor Regulation (NRR), Office of Enforcement (OE), Office of the General Counsel (OGC), Office of Nuclear Material Safety and Safeguards (NMSS), Office of Nuclear Regulatory Research (RES), Office of the Chief Financial Officer (OCFO) and the Advisory Committee on Reactor Safeguards (ACRS) attended an internal NRC stakeholders meeting which was sponsored by NRR, Division of Engineering (DE), Materials and Chemical Engineering Branch (EMCB). The goal of the meeting was to specifically determine guidelines to allow the drafting of an initial regulatory framework that supports the implementation of voluntary initiatives.

Representatives from NRR, NMSS, RES, OE, OGC, OCFO and ACRS (Attachment 1) met to propose developmental guidelines regarding voluntary industry initiatives. Those who were invited but did not attend were members from the Office of Public Affairs (OPA), Office of the Chief Information Officer (OCIO) as well as additional representatives from NRR, NMSS, OE and OGC (Attachment 2).

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The emphasis of the meeting was focused on nine areas as specified in SECY-99-063: definition and initiation of voluntary initiatives, identification of staff role, fee management, developing an operating plan, tracking of licensee commitments, generating inspection/monitoring guidelines, developing enforcement procedures, and public participation. The details of the meeting, based upon these nine areas, are summarized as follows:

1. Definition of Voluntary Industry Initiatives - It was generally agreed that voluntary industry initiatives could be classified in one of the following three categories:
 - ! Those that substitute for regulatory actions (e.g., GL's, rulemaking, etc.) for issues within the design-basis. The Boiling Water Reactor Vessel and Internals Project (BWRVIP) was cited as an industry program for this type of a voluntary initiative.
 - ! Those that are outside the design-basis, but are justifiable as a safety enhancement (e.g., shutdown risk and severe accidents).
 - ! Those that are outside the design-basis, which are of low risk and safety significance, that allow significant resource savings to the staff and/or industry (e.g., badging).
2. Initiation of Voluntary Industry Initiatives - Topics of concern included:
 - ! how voluntary initiatives are initiated and characterized in terms of significance
 - ! creating schedules for establishment of initiatives
 - ! level of management (NRC and industry) needed to pursue and endorse initiation of initiative
3. Identification of Staff Role - If a voluntary initiative is submitted for review, a staff interface would need to be identified. This would entail specifying the NRC contacts in terms of a lead project manager (PM), a lead technical reviewer, and any other associated technical resources. The scope of staff participation may include:
 - ! review and approval of topical reports
 - ! review and comment on industry guideline documents
 - ! no review with only an inspection follow-up
4. Fee Management - The primary point of the discussion was the generic nature of the billing process. The billing process presently charges to the general fund for reviews of voluntary industry initiatives, rather than charging against a specific Docket or Owners Group.

5. Developing an Operating Plan - A mechanism would need to be established to develop NRC plans and schedules to support budgeting and resource assessments, and any required reallocations to support staff review.
6. Tracking of Licensee Commitments - Tracking of standard licensee commitments needs to be addressed. NRR/DLPM will be consulted for assistance with these issues. This would necessitate the tracking of resources included in the fiscal process, the operating plan, and the redirection of the voluntary initiative workload if a higher priority work distracts from completion commitments.
7. Developing Inspection/Monitoring Guidelines - A plan would be established based upon the program implemented by the licensees. Voluntary initiatives could be inspected at each plant from either a risk or performance viewpoint. From a legal perspective, there was substantial discussion regarding the subject of enforcement. The consensus was that violations could be written against the licensee's Appendix B program for (a) the failure to follow procedures, or (b) inadequate procedures.
8. Developing Enforcement Procedures - Proposed enforcement guidelines will be discussed with stakeholders regarding deviations or non-compliance from a program committed to via a voluntary industry initiative. Failure to meet committed obligations may be addressed under provisions of 10 CFR Part 50, 10 CFR 50.9, or through process controls such as Section 182 of the Atomic Energy Act. Depending upon the significance of findings, actions could be taken similar to current guidance, i.e., for:
 - ! Low to Moderate risk significant issues. These issues would be identified to the licensee as deviations from a commitment and be included in the corrective action program. Safety related items that are within the current licensing basis and are included in the Appendix B program are treated the same as any other non-compliance issue.
 - ! Significant High risk issues and Willful Non-compliance to the committed program. These issues would be identified to the licensee and appropriate actions would be taken to initiate enforcement per the Atomic Energy Act. Issuance of 10 CFR 50.54(f) letters and/or Orders may be considered as necessary.

For the first type of voluntary initiative, enforcement could be dealt with on a non-compliance basis, given the licensee's incorporation of the voluntary program/procedure into the licensee's 10 CFR Part 50 Appendix B program. For the second type of voluntary initiative, an enforcement basis may not exist. If an enforceable basis does not exist, rulemaking and/or Orders may be appropriate if the issue passes the backfit test, pursuant to 10 CFR 50.109.

9. Public Participation - Public participation and accessible information are important in keeping the public informed when a voluntary industry initiative complements or substitutes for a regulatory action. This may involve the internet availability of voluntary initiative announcements, reports and safety evaluations. Issues such as the proprietary nature of materials need to be examined, in order to maintain the balance between public involvement and the licensee's right to withhold sensitive documentation. Another point is that industry representatives, who funded and developed a particular program, may not desire to disseminate their findings to those who did not financially contribute.

Future actions - set up external stakeholders meeting within a late October/early November time frame.

Attachments: As stated

SEPTEMBER 8, 1999, MEETING PARTICIPANTS

1. Robert Hermann, NRR
2. William Bateman, NRR
3. C. E. Carpenter, NRR
4. Timir Misra, NRR
5. Bill Borchardt, OE
6. Dennis Dambly, OGC
7. Merri Horn, NMSS
8. Renee Pederson, OE
9. Dave Nelson, OE
10. Noel Dudley, ACRS
11. Frank Cherny, RES
12. Ronald Villafranco, NRR
13. Tony Tse, NMSS
14. Robert Palla, NRR
15. Richard Wessman, NRR
16. Patricia Holahan, NMSS
17. Don Nirkin, NRR
18. James Turdici, OCFO

ABSENTEE PARTICIPANTS

1. Victor Dricks, OPA
2. Jack Strosnider, NRR
3. Tim Collins, DSSA
4. Jacqueline Silber, NRR
5. John Tappert, DRIP
6. Steve Stein, NRR
7. Bill Dean, NRR
8. Jack Goldberg, OGC
9. Jim Lieberman, OGC
10. Vicki Yanez, OCIO
11. Donnie Grimsley, OCIO
12. Walter Oliu, OCIO
13. Donald Cool, NMSS
14. Torre Taylor, NMSS
16. Martin Virgilio, NMSS
17. John Craig, RES
18. Michael Mayfield, RES
19. Wallace Norris, RES
20. Elinor Adensam, NRR